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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Patrice Marche

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OLIFF & BERRIDGE, PLC

P.O. BOX 320850

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EXAMINER

LUCAS, ZACHARIAH

ART UNIT

PAPER NUMBER

1648

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. Applicant traversed the prior restriction in part on the grounds that claim 12 permits the combination of, and not merely the use of individual, species identified in the claim. In view of such, Applicant is now afforded the opportunity to elect such a combination.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 12, 13, 16-18, and 22, drawn to an anti-MRSV/HERV-W antibody and a first method of use.

Group II, claim(s) 12, 13, 16-18, and 22, drawn to an anti-TLR4 antibody and a first method of use.

Group III, claims 12-20, drawn to a combination of an anti-MRSV/HERV-W antibody and an anti-TLR4 antibody and a first method of use.

Group III, claim(s) 21, drawn to a method for determining the state of reactivity of blood mononuclear cells from patients to cytokines.

3. The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical feature of these groups is a relationship between a disorder such as MS and the HERV element known as MSRV. Such a relationship was known in the art. See e.g., Serra et al., reference 90 of the January 2007 IDS. In addition, Groups I and II share only the presence or use of antibodies identified as having activity of inhibiting MSRV induced inflammation. The anti-TLR4 antibody known as HTA125 is such an antibody. This antibody was known in the prior art. See e.g., Wang et al., Infect Immun 69:2402-06, at 2403 (left column). The inventions therefore lack unity.

Species Election

4. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

For each of Groups I-IV, Applicant is required to elect a disorder from (a) multiple sclerosis or (b) schizophrenia.

For Groups II and III above, if elected, Applicant is required to elect an embodiment wherein the anti-TLR4 antibody is (i) capable of binding to the soluble fraction of MSRV/HERV-W Env protein, or (ii) capable of binding to the TLR4 receptor for the soluble fraction of MSRV/HERV-W Env protein.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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5. The claims are deemed to correspond to the species listed above in the following manner:

Claims 17 and 21 each corresponds to species (a) and (b).

Claims 12-20 and 22 correspond to species (ii), and claims 12-14, 16-19, and 22 correspond to species (i).

Claims 12-16, 18-20, and 22 are generic to species (a) and (b). No claims are generic to species (i) and (ii)

6. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The species lack unity for the same reasons as indicated with respect to the Groups above.

Conclusion

7. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is (571)272-0905. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Zachariah Lucas/
Primary Examiner, Art Unit 1648